

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
Revision of the Commission's Rules)	CC Docket No. 94-102
to Ensure Compatibility)	
with Enhanced 911 Emergency)	
Calling Systems)	
 King County, Washington Request)	
Concerning E911 Phase I Issues)	

To: Chief, Wireless Telecommunications Bureau

**REPLY OF THE TEXAS 9-1-1 AGENCIES
TO COMMENTS SUPPORTING THE PETITION
FOR RECONSIDERATION OF THE KING COUNTY RULING**

The Texas 9-1-1 Agencies reiterate their opposition to the Petition for Reconsideration of the four wireless carriers¹ who dispute the Bureau's decision² regarding the King County, Washington, E-911 Program Office³ (King County) request. The Texas 9-1-1 Agencies

¹ Verizon Wireless, VoiceStream Wireless Corporation, Nextel Communications, Inc., and Qwest Wireless, LLC, petitioned the Bureau for reconsideration of the King County decision on June 6, 2001 (Recon Petition). See Public Notice, *Wireless Telecommunications Bureau Seeks Comments on Petition for Reconsideration Regarding Allocation of Costs of E911 Implementation*, CC Docket No. 94-102, DA 01-1520 (Wireless Telecom. Bureau rel. June 27, 2001).

² Letter from Thomas J. Sugrue, Chief, Wireless Telecommunication Bureau, Federal Communications Commission, to Marlys R. Davis, E911 Program Manager, King County E-911 Program Office, Department of Information and Administrative Services, dated May 7, 2001 (Bureau Letter).

³ Letter from Marlys R. Davis, E911 Program Manager, King County E-911 Program Office, Department of Information and Administrative Services, to Thomas J. Sugrue, Chief, Wireless Telecommunication Bureau, Federal Communications Commission, dated May 25, 2000 (King County Letter).

responded in full to most of the Supporters' comments⁴ with their opposition comments⁵ to the Petitioners' Recon Petition and, thus, do not reiterate those arguments. The Texas 9-1-1 Agencies do respond briefly, however, to certain points made by the Supporters and would respectfully show:

EXECUTIVE SUMMARY

Supporters of the Recon Petition provide no substantive new arguments or legal basis that require the Federal Communications Commission (Commission) to reconsider and overturn the Bureau Letter. The Wireless Telecommunications Bureau (Bureau) correctly determined that wireless carriers should bear those costs that precede the 9-1-1 Selective Router while Public Safety Answering Points (PSAPs) incur those costs beyond the input to the 9-1-1 Selective Router.⁶

DISCUSSION

Cal-One Cellular, LP (Cal-One), incorrectly asserts that "the Bureau, in the May 7 Letter, makes a new policy choice of who should bear the costs of E911 Wireless Network, contrary to the Commission's prior determination [that] carriers and PSAP are to jointly share costs."⁷ Commission rule 20.18—which embodies the Commission's determination on the cost recovery issue—does not delineate the demarcation points of the various parties' cost responsibility. Cal-One further states that the Bureau Letter "clearly goes beyond the scope of the Bureau's

⁴ Comments [of Cal-One Cellular, LP]; Comments of CenturyTel Wireless, Inc; Comments of Dobson Communications Corporation; Sprint PCS Comments (collectively Supporters), all dated July 30, 2001.

⁵ See July 30, 2001, Opposition Comments of the Texas 9-1-1 Agencies to the Petition for Reconsideration of the King County Ruling.

⁶ Bureau Letter at 1.

⁷ Comments [of Cal-One Cellular, LP] at 4.

delegated authority to interpret the Commission's rules.”⁸ As the Texas 911 Agencies noted in their initial comments, the Commission authorized more than the Bureau's interpretation of the Commission's rules: “[I]n the event that an impasse arises, Commission staff will be available to help resolve these disagreements on an expedited basis.”⁹ The Bureau Letter appropriately decided the issue in dispute regarding a matter the rule does not address expressly.

Cal-One's lengthy argument that a sister wireline company “has not been responsible financially for the provision of E911 services”¹⁰ in California is irrelevant and ignores a most relevant fact. The Commission did not “disturb the actions of States or localities that already have adopted such [cost recovery] mechanisms or to discourage them from deciding what cost recovery or sharing mechanisms that cover carrier costs are an effective way of expediting wireless E911 for their citizens, especially in rural areas.”¹¹ Nor does the Bureau Letter change the Commission ruling that state cost recovery mechanisms remain undisturbed.

Dobson Communications Corporation (Dobson) outlines a competitive argument that appears raised for the first time, is without support on the record, and, thus, cannot be considered. It urges that companies operating in primarily rural and suburban areas, such as itself, cannot “pass through significant percentages of the costs of E911 services to their subscribers . . . [since] Dobson and other rural carriers must remain competitive with the rate plans offered by the large national and regional carriers”¹² Rural wireless carriers have

⁸ Comments of Cal-One at 4.

⁹ In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Second Memorandum Opinion and Order*, FCC 99-352, 14 FCC Record 20,850, 20854 at ¶ 7 (1999) (Second MO&O), recon. denied, 15 FCC Record 22810 (2000), *affirmed sub nom.*, *United States Cellular Corp. v. FCC*, 2001 U.S. App. LEXIS 14395 (D.C. Cir. June 29, 2001)(*U.S. Cellular*).

¹⁰ Comments of Cal-One at 5.

¹¹ Second MO&O, 14 FCC Record 20853 at ¶ 4.

¹² Comments of Dobson at 2.

commented before regarding higher implementation costs,¹³ and this issue was resolved by the Commission with a solution that appears applicable to Dobson’s competitive argument, assuming *arguendo* it were supported by the record: “ ‘[I]n cases where the cost recovery mechanism for E911 service uniquely disadvantages a particular carrier, we will . . . consider waiver requests.’ ”¹⁴ The Texas 911 Agencies note, however, that waivers are not indefinite, and at some point Dobson must implement E911 service in compliance with the Commission’s rule 20.18 and the Bureau’s determination of where cost responsibilities lie.

Sprint PCS (Sprint) makes another alleged competitive argument with its statement that “[t]he Commission should take the necessary steps to ensure that the existing E911 network is not acting as a bottleneck for wireless E911.” Sprint, it would appear, believes “the existing E911 network” serves as a bottleneck to distort conditions for wireless carriers competing against wireline companies. The Texas 9-1-1 Agencies refer to the *U.S. Cellular* Court’s observation of the Commission’s actions: “[T]he Commission’s apparent focus in achieving wireless and landline parity is not on making funding [addressing the competitive issue] methods identical, but on equalizing services available to consumers . . . to ensure that consumers have access to E911 services whether they use landline or wireless phones.”¹⁵ The Commission’s E911 rule and the Bureau Letter correctly focus on expediting the implementation of E911 service to end users.

¹³ The recently decided challenge of the Commission’s elimination of the carrier cost recovery requirement records the issue, “The Commission also responded to comments by rural wireless carriers that ‘providing ALI in rural areas may not be technologically and economically feasible . . . and that carrier cost recovery mechanisms might not fully reimburse these higher implementation costs’” *U.S. Cellular*, 2001 U.S. App. LEXIS 14395, *6.

¹⁴ *U.S. Cellular*, 2001 U.S. App. LEXIS 14395, *6-7, quoting First Report and Order, 11 FCC Rcd 18676 at p 84.

¹⁵ *U.S. Cellular*, 2001 U.S. App. LEXIS 14395, *25, citing to Second Report and Order, 14 FCC 10954 at p 4.

The Texas 9-1-1 Agencies disagree further with Sprint's statement that the Bureau Letter "has rendered Rule 20.18(j) superfluous . . . because the Bureau has effectively decided each [Public Safety Answering Point] PSAP in the country is already Phase I capable (because they simply transfer Phase I 'enhancement/add-on' costs from themselves to carriers)."¹⁶ In accordance with the Bureau Letter, PSAPs bear the not-insubstantial financial responsibility of upgrading the PSAP's and/or the local exchange carrier's systems to enable the transmission of ANI and ALI. The delineation of costs outlined by the Bureau Letter ensures that both PSAPs and wireless carriers bear their fair share of E911 implementation costs.

CONCLUSION

For the foregoing reasons, the Texas 9-1-1 Agencies urge the Bureau to deny Petitioners' request for reconsideration of the King County ruling. The Bureau Letter is supported by the record and should be upheld.

Respectfully submitted,

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¹⁶ Comments of Sprint at 3.

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Certificate of Service

I certify that a copy of these comments is being served on August 14, 2001, by regular or overnight mail or fax on the required parties.

Patricia Ana Garcia Escobedo

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